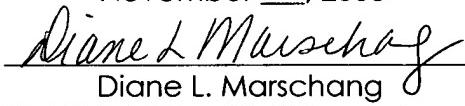




11-102-03

Patent Docket P1176R1C1

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of  Arnold J. Levine et al.  Serial No.: 10/628,770  Filed: July 28, 2003  For: POLYPEPTIDES AND NUCLEIC ACIDS ENCODING SAME	Group Art Unit: to be assigned  Examiner: to be assigned  <b>Customer No: 09157</b>  <b>CERTIFICATE OF MAILING</b> Express Mail Number: <u>EV 351 928 693 US</u> I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated below and is addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria Virginia 22313-1450". November <u>10</u> , 2003  Diane L. Marschang
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TRANSMITTAL LETTER

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Transmitted herewith are the following documents:

1. Information Disclosure Statement;
2. Form PTO-1449 with 21 References and;
3. Return postcard.

In the event any additional fees are due in connection with the filing of these documents, the Commissioner is authorized to charge such fees to our Deposit Account No. 07-0630.

Respectfully submitted,

GENENTECH, INC.

Date: November 10, 2003  
By:   
Diane L. Marschang  
Reg. No. 35,600  
Telephone No. (650) 225-5416

#144098



Patent Docket P1176R1C1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of  Arnold J. Levine et al.  Serial No.: 10/628,770  Filed: July 28, 2003  For: POLYPEPTIDES AND NUCLEIC ACIDS ENCODING SAME	Group Art Unit: to be assigned  Examiner: to be assigned  CUSTOMER NO: 09157  <b>CERTIFICATE OF EXPRESS MAILING</b> Express Mail Number: <u>EV 351 928 693 US</u> I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated below and is addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria Virginia 22313-1450".  November <u>10</u> , 2003 <u>Diane L. Marschang</u> Diane L. Marschang
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INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicants submit herewith patents, publications or other information (attached hereto and listed on the attached revised Form PTO-1449) of which they are aware, which they believe may be material to the examination of this application and in respect of which there may be a duty to disclose in accordance with 37 CFR §1.56.

This Information Disclosure Statement is filed in accordance with the provisions of:

**37 CFR §1.97(b)**

- within three months of the filing date of the application other than a continued prosecution application under 37 CFR §1.53(d); **or**
- within three months of the date of entry of the national stage of a PCT application as set forth in 37 CFR§1.491, **or**
- before the mailing of the first Office action on the merits; **or**
- before the mailing of the first Office action after the filing of a request for a continued examination under 37 CFR §1.114.

**37 CFR §1.97(c)**

- by the applicant after the period specified in 37 CFR §1.97(b), but prior to the mailing date of any of a final action under 37 CFR §1.113, or a notice of allowance under 37 CFR §1.311, or an action that otherwise closes prosecution in the application, and is accompanied by either the fee set forth in 37 CFR §1.17(p) **or** a statement as specified in 37 CFR §1.97(e), as checked below.

**37 CFR §1.97(d)**

- after the period specified in CFR §1.97(c), and is accompanied by the fee set forth in 37 CFR §1.17(p) **and** a statement as specified in 37 CFR §1.97(e), as checked below.

[If either of boxes 37 CFR §1.97(c) or 37 CFR §1.97(d) is checked above, the following statement under 37 CFR §1.97(e) may need to be completed.]

- 37 CFR §1.97(e)** Each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this information disclosure statement.
- 37 CFR §1.704(d)** Each item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application and the communication was not received by any individual designated in §1.56(c) more than thirty days prior to the filing of this information disclosure statement. Therefore, in accordance with the provisions of 37 CFR §1.704(d), the filing of this information disclosure statement will not be considered a failure to engage in reasonable efforts to conclude prosecution under 37 CFR §1.704.
- The U.S. Patent and Trademark Office is hereby authorized to charge Deposit Account No. 07-0630 in the amount of \$180.00 to cover the cost of this Information Disclosure Statement under 37 CFR §1.17(p). Any deficiency or overpayment should be charged or credited to this deposit account.

A list of the patents or publications is set forth on the attached revised Form PTO-1449 (Modified). A copy of item numbers 7, 14, 15, 17, 19, 22, 23, 28, 55, 56, 57, 61, 78, 83, 96, 97, 102, 105, 106, 107, and 114 on PTO-1449 is supplied herewith.

Those patents or publications which are marked with an asterisk (\*) in the attached PTO-1449 form are not supplied because they were previously cited by or submitted to the Office in a prior application Serial No. 09/182,562, filed October 29, 1998 and relied upon in this application for an earlier filing date under 35 USC §120.

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Filed: July 28, 2003

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A concise explanation of relevance of the items listed on PTO-1449 is:

- not given
- given for each listed item
- given for only non-English language listed item(s) [Required]
- in the form of an English language copy of a Search Report from a foreign patent office, issued in a counterpart application, which refers to the relevant portions of the references.

In accordance with 37 CFR §1.97(g), the filing of this information disclosure statement shall not be construed as a representation that a search has been made.

In accordance with 37 CFR §1.97(h), the filing of this information disclosure statement shall not be construed to be an admission that the information cited in the statement is, or is considered to be, material to patentability as defined in 37 CFR § 1.56(b).

The Commissioner is hereby authorized to charge any additional fees required under 37 CFR 1.16 and 1.17 for this Information Disclosure Statement, or credit overpayment to Deposit Account No. 07-0630. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

GENENTECH, INC.

By: Diane L Marschang  
Diane L. Marschang  
Reg. No. 35,600  
Telephone No. (650) 225-5416

Date: November 10, 2003

#143953

FORM PTO-1449		U.S. Dept. of Commerce Patent and Trademark Office		Atty Docket No. P1176R1C1	Serial No. 10/628,770
LIST OF DISCLOSURES CITED BY APPLICANT (Use several sheets if necessary)				Applicant Levine et al.	
				Filing Date 28 Jul 2003	Group to be assigned



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	*	2 5,536,637	16.07.96	Jacobs, K.			
	*	3 5,585,087	17.12.96	Lustig et al			
	*	4 5,840,569		Hillman			
	*	5 6,100,060	08.08.00	Barnes et al.			

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Examiner	Date Considered
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\*Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609; draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

FORM PTO-1449		U.S. Dept. of Commerce Patent and Trademark Office	Atty Docket No. P1176R1C1	Serial No. 10/628,770
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<b>OTHER DISCLOSURES (Including Author, Title, Date, Pertinent Pages, etc.)</b>				
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